

APPEAL NO. 020502
FILED APRIL 4, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 14, 2002, with the record closing on January 28, 2002. The appellant (carrier) appeals the hearing officer's determinations that the respondent (claimant) sustained a compensable injury on _____, in the form of an occupational disease and that the claimant had disability from the injury from _____, through January 11, 2002. The claimant responds, urging affirmance.

DECISION

Because a complete record of the CCH is not available for our review, we reverse and remand.

Section 410.203(a) provides that the Appeal's Panel shall consider the record developed at the CCH and the written request for appeal and response filed with the Appeals Panel. *And see* Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.2(a) (Rule 143.2(a)). *See also* Texas Workers' Compensation Commission Appeal No. 92153, decided May 29, 1992, and cases cited therein. The hearing officer's decision does not reflect that the proceedings were recorded by a court reporter. The first tape of the CCH proceedings is dragging and will not play.

In remanding this case, we request that only such portions of the testimony, rulings, and arguments as are inaudible or unintelligible on the tape recorded record be reconstructed. It is necessary, upon remand, that the record be sufficiently reconstructed so that the Appeals Panel can review all of the testimonial evidence, statements of the parties and counsel or assistant, and rulings of the hearing officer. *See* Texas Workers' Compensation Commission Appeal No. 92404, decided September 21, 1992. The hearing officer should provide the claimant and the self-insured with a copy of the tapes we are returning. If an audio or extracting service can reconstruct the inaudible or unintelligible portions of the tapes so that the hearing officer can assure that a complete record of the proceedings is available for appellate review, such reconstruction would satisfy this panel. *See* Texas Workers' Compensation Commission Appeal No. 91017, decided September 25, 1991.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202. *See* Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 N. ST. PAUL
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Edward Vilano
Appeals Judge